

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MY SIZE, INC.,

Plaintiff,

v.


DAVID LAZAR, CUSTODIAN VENTURES
LLC, ACTIVIST INVESTING LLC,
MILTON C. AULT III, AULT ALPHA LP,
AULT ALPHA GP LLC, AULT CAPITAL
MANAGEMENT LLC, AULT &
COMPANY, INC., DAVID ABOUDI,
PATRICK LONEY, and DAVID NATAN,

Defendants.

Civil No. 1:21-cv-08585



ORDER TO SHOW CAUSE


This matter having been brought before the Court on the application of McDermott Will & Emery LLP, attorneys for Plaintiff My Size, Inc. (the “Company” or “Plaintiff”), for an order granting a hearing on Plaintiff’s anticipated motion for a preliminary injunction and expedited scheduling and discovery in aid thereof, against Defendants David Lazar, Custodian Ventures LLC, David Aboudi, Patrick Loney, and David Natan (collectively, the “Lazar Defendants”), Milton C. Ault III, Ault Alpha LP, Ault Alpha GP LLC, Ault Capital Management LLC, Ault & Company, Inc. (collectively, the “Ault Defendants,” and, together with the Lazar Defendants, “Defendants”), and the Court having considered Plaintiff’s memorandum of law, the declaration of David K. Momborquette, sworn to October 19, 2021, and the exhibits attached thereto, the affirmation of Ronen Luzon, sworn to October 18, 2021, and the exhibits attached thereto, and all papers and proceedings in the above-captioned action, and for good cause shown, it is hereby


 ORDERED that Defendants show cause before this Court on ~~November~~ ^{December 2, 2021} at ~~—~~ ^{11:00 a.m.} in Courtroom ~~—~~ ^{14B, 500} Pearl St. ~~am~~ why this Court should not order, as preliminary injunctive relief:


1. Declaring that Defendants' proxy solicitation violates Section 14(a) of the Exchange Act and Rules 14a-9 and 14a-12 promulgated thereunder;
2. Declaring that the Defendants' Schedule 13D and the amendments thereto violate Section 13(d) of the Exchange Act and Rules 13d-1 and 13d-101 promulgated thereunder;
3. Ordering Defendants to amend and correct by public means the misrepresentations and omissions in their Schedule 13Ds, and enjoining Defendants from any trading in the Company's stock until they have done so;
4. Ordering Defendants to disclose all communications made to any person or entity in furtherance of their unlawful proxy solicitation;
5. Enjoining Defendants from voting any shares owned at the time of their violations of Sections 14(a) and 13(d) of the Exchange Act;
6. Enjoining Defendants from submitting or purporting to submit the Insurgent Slate to the Company's stockholders for election to the Company's Board of Directors at the Company's next annual meeting; and
7. Granting any other relief the Court deems just and proper.

IT IS FURTHER ORDERED that briefing and limited expedited discovery shall proceed in accordance with the following schedule:

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1. The Defendants shall respond ^{with any objections} to Plaintiff's document request ^{no later than October 22, 2021;} 
 2. The Defendants shall produce documents in response to Plaintiff's document requests on a rolling basis, beginning on or before October 27, 2021 and concluding no later than October 30, 2021;

~~2. The Defendants shall produce witnesses for deposition between November 5, 2021~~
~~and November 11, 2021.~~ 

3. Plaintiff will file its Motion for a Preliminary Injunction on or before November ⁸
~~15~~, 2021. 

4. The Defendants will file their opposition to Plaintiff's Motion for a Preliminary Injunction on or before November ¹⁵
~~18~~, 2021. 

5. Plaintiff will file its reply in further support of its Motion for a Preliminary Injunction on or before November 22, 2021.

IT IS FURTHER ORDERED that personal or overnight mail service of a copy of this order to show cause and the papers upon which it is granted upon the attorneys for the Lazar Defendants, Olshan Frome Wolosky LLP (Attn: Spencer Feldman, Esq. and Kenneth A. Schlesinger, Esq.), 1325 Avenue of the Americas, New York, New York 10019, as set forth as the contact for notice and communications in and for the operative Schedule 13Ds filed by the Lazar Defendants, shall be deemed good and sufficient service thereof on the Lazar Defendants; and

IT IS FURTHER ORDERED that personal or overnight mail service of a copy of this order to show cause and the papers upon which it is granted upon Milton C. Ault, III, c/o Ault Capital Management LLC, 11411 Southern Highlands Parkway, Suite 330, Las Vegas, NV 89141, as set forth as the contact for notice and communications in and for the Ault Schedule 13D, dated September 13, 2021, shall be deemed good and sufficient service thereof on the Ault Defendants.

It is further ordered that plaintiff will post a bond in the amount of \$15,000 by no later than October 27, 2021.
SO ORDERED on 10/20/, 2021



United States District Judge